

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS.
CENTRAL DIVISION

C.A. NO. 04-CV-40054-2

GERALD F. RICHARDS,
Plaintiff

v.

SOUTHBRIDGE POWER & THERMAL, LLC.,
Defendant

**DEFENDANT SOUTHBRIDGE POWER & THERMAL, LLC'S, MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, defendant Southbridge Power & Thermal, LLC, ("Southbridge") moves for summary judgment on all counts of plaintiff Gerald Richards's complaint. Allowing Southbridge's motion is proper because, to the extent Southbridge was involved in the construction project at issue, it had no responsibility for safety on the job and no evidence suggests that it had the requisite control of the job site to saddle it with any duty of care to plaintiff. See, e.g., *Cheschi v. Boston Edison Co.*, 39 Mass. App. Ct. 133, 135-138 (1995); *Corsetti v. Stone Co.*, 396 Mass. 1, 10 (1985); *Foley v. Rust International*, 901 F.2d 183, 184-185 (1st Cir. 1990). There are no disputed issues of material fact to be tried, and summary judgment can be granted as a matter of law.

A memorandum of law fully explaining Southbridge's position why summary judgment is proper is submitted in conjunction with this motion.

Rule 7.1(2) Certification of Counsel

Pursuant to Local Rule 7.1(2), counsel certifies that he has attempted in good faith to resolve or narrow the issues presented by this motion without success.

REQUEST FOR ORAL ARGUMENT

SOUTHBRIDGE POWER & THERMAL, LLC, REQUESTS ORAL ARGUMENT ON ITS MOTION FOR SUMMARY JUDGMENT.

THE DEFENDANT,
SOUTHBRIDGE POWER &
THERMAL, LLC,
BY ITS ATTORNEYS,

DATED: 9/29/05




Anthony M. Campo, BBO# 552093
Keith L. Sachs, BBO# 634025
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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(a) and/or Sup. Ct. R. 9A, I, Keith L. Sachs, do hereby certify that a copy of the foregoing documents have been served first-class postage prepaid on all parties or their representatives in this action as listed below:

Charlotte E. Glinka, Esq.
Keches & Mallen, P.C.
122 Dean St.
Taunton, MA 02780

SIGNED UNDER THE PENALTIES OF PERJURY THIS 29th DAY OF September, 2005.



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